IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1889 OF 2007

Jayesh Manjayya Shetty ..Applicant

Vs.

State of Maharashtra ..Respondent

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Mr.R.D.Suryawanshi advocate for applicant
Mr.K.V.Saste A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 20, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking anticipatory bail in C.R.No.I-138 of 2007 of Bhiwandi City Police Station. The said case is under Sections 326 and 427 r.w. 34 of IPC.

3. The complainant Anandam Mogli has stated that on 28.5.2007 in the evening, when he was returning home, the present applicant along with three others obstructed him. They were all armed with wooden logs. These persons stated to the complainant that

he was working for the opposite party in the election and thereafter they started beating him with wooden logs. The complainant has sustained five injuries on his person. One of the injuries is fracture of the right arm and the other major injury is a contused lacerated wound admeasuring 5 cms. in length on the fronto parietal region.

4. Mr.Surywanshi, the learned advocate for the applicant has submitted that though the incident occurred on evening of 28.5.2007, the FIR came to be lodged only on the next day. He submitted that this shows that the applicant has been falsely implicated as an after thought. It is true that the FIR came to be lodged on the next day i.e. on 29.5.2007. However, it is seen that the FIR came to be recorded in the hospital as the complainant had received serious injuries including an injury on the head which was required to be sutured, hence, after taking the endorsement of the Doctor that the patient was fully conscious and in a position to make a statement, the statement of the complainant came to be recorded. Thus, in such circumstances, the delay in lodging the FIR, prima facie would not affect the prosecution case.

5. Thereafter Mr.Suryawanshi, the learned advocate for the applicant has submitted that the other co-accused have been released on regular bail. However, the present application is for anticipatory bail and not for bail. It is well settled that the considerations for grant of bail and anticipatory bail are entirely different. The Apex Court has so observed in the case of *State Vs. Anil Sharma reported in (1997) 7 SCC 187*.

6. Mr.Suryawanshi, the learned advocate for the applicant has lastly submitted that the applicant no.1 has got married on 4.7.2007 and in such circumstances, he may be granted anticipatory bail.

7. The case is at the stage of investigation. For the purposes of investigation, there is enough material to point out an accusing finger against the present applicant in respect of a criminal offence. The Apex Court has observed in the case of *Directorate of Enforcement Vs. P.V.Prabhakar Rao, reported in 1997 SCC (Cri.) 978* that when the material collected by the prosecution is such as to point out an accusing finger against the applicant,

it is not a fit case to grant anticipatory bail. In my opinion case, the custody of the applicant is required to properly investigate the matter. In this view of the matter, the fact that applicant is newly married, cannot be a ground to grant him anticipatory bail.

8. Application is rejected. Applicant is granted time upto 11 a.m. on 25.6.2007 to surrender.

[SMT.V.K.TAHILRAMANI, J.]